

APPEAL NO. 032371
FILED OCTOBER 20, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 11, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury in the form of an occupational repetitive trauma injury with a date of injury of _____, and that the claimant does not have disability resulting from a compensable injury sustained on _____. The claimant appealed the hearing officer's determinations based on sufficiency of the evidence grounds. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The hearing officer did not err in his determinations on the issues of occupational disease injury and disability. Section 401.011(34) provides that an occupational disease includes a repetitive trauma injury which is defined in Section 401.011(36) and excludes an ordinary disease of life to which the public is exposed outside of employment. Section 401.011(16) defines "disability" as the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage.

The claimant testified that he developed a headache on his way to work, and that at work he began to have chest pains and numbness in his left arm on _____. Conflicting evidence was presented on whether the claimant suffered an injury in the course and scope of his employment. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. The hearing officer noted that the claimant did not prove by a preponderance of the evidence that he sustained a work-related injury. We conclude that the hearing officer's determination that the claimant did not sustain a compensable injury in the form of an occupational repetitive trauma injury with a date of _____, is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W. 2d 175 (Tex. 1986).

The 1989 Act requires the existence of a compensable injury as a prerequisite to a finding of disability. Because we have affirmed the determination that the claimant did not sustain a compensable injury, we likewise affirm the determination that he did not have disability.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Margaret L. Turner
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Chris Cowan
Appeals Judge